

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Lorrie Adams,

Complainants,

vs.

**FINDINGS OF FACT,
CONCLUSIONS, AND
ORDER**

Representative Bruce Anderson and
Klatt True Value Hardware Electric Co.,

Respondents.

The above-entitled matter came on for an evidentiary hearing on November 17, 2008, before a panel of three Administrative Law Judges: Steve M. Mihalchick (Presiding Judge), Richard C. Luis, and Carol A. Eckersen.¹ Pursuant to an agreement of the parties, the panel made its determination based on the record created at the October 17, 2008 probable cause hearing.² No additional appearance by the parties was made. The record was held open until November 13, 2008, to allow the parties the opportunity to file further submissions and written argument. The Complainant filed an affidavit and copies of advertising bids and rate sheets on November 13, 2008. The Respondents filed no additional submissions. The record closed on November 13, 2008.

Lorrie Adams participated at the probable cause hearing on her own behalf. Representative Bruce Anderson participated at the probable cause hearing on his own behalf. Korey Klatt participated at the probable cause hearing on behalf of Klatt True Value Hardware Electric Co.

NOTICE

This is the final decision in this case, as provided in Minn. Stat. § 211B.36, subd. 5. A party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63 to 14.69.

STATEMENT OF ISSUES

¹ Judge Eckersen was assigned to the panel to replace Judge Gary Hall who had a scheduling conflict.

² The probable cause hearing record includes the digital recording of the hearing, the Complaints, the attachments to the Complaints, and copies of four rental contracts between Representative Anderson and various businesses where his signs were posted.

1. Did Respondent Bruce Anderson violate Minnesota Statutes § 211B.13, subd. 2, by knowingly accepting from Klatt True Value Hardware Electric Co. a campaign contribution that was a prohibited corporate contribution in the form of a campaign sign posted on corporate property?

2. Did Respondent Klatt True Value Hardware Electric Co. violate Minn. Stat. § 211B.15, subd. 2, by making a prohibited corporate contribution to Representative Bruce Anderson in the form a campaign sign posted on its corporate property?

The panel concludes that the Complainant has established that Respondent Bruce Anderson violated Minn. Stat. § 211B.13, subd. 2, by knowingly accepting a campaign contribution that was a prohibited corporate contribution from Klatt True Value Hardware Electric Co., and that Klatt True Value Hardware Electric Co. violated Minn. Stat. § 211B.15, subd. 2 by making a prohibited corporate contribution to Representative Bruce Anderson.

Based upon the entire record, the panel makes the following:

FINDINGS OF FACT

1. Respondent Bruce Anderson was the incumbent candidate for Minnesota House of Representatives District 19A³ in the November 2008 election. His DFL-endorsed opponent in that race was Jim Bakula. Mr. Anderson won re-election by approximately 53 percent of the vote.⁴

2. Complainant Lorrie Adams is the Chair of Senate District 19 DFL. Senate District 19 DFL works to elect Democratic Party candidates to the Minnesota legislature. Senate District 19 includes Minnesota House Districts 19A and 19B.⁵

3. Respondent Klatt True Value Hardware Electric Co. (Klatt True Value) is a corporation located on Highway 25 North in Buffalo, Minnesota.⁶

4. According to the Minnesota Department of Transportation, the average annual daily traffic volume in 2006 on Highway 25 in Buffalo was 20,400 vehicles per day.⁷

³ House District 19A is located in Wright County and includes the cities of Monticello, Buffalo, Maple Lake and Clearwater, plus the surrounding townships of Silver Creek, Chatham, Marysville and Albion.

⁴ According to the Minnesota Secretary of State's website, Mr. Anderson received 52.52% of the vote and Mr. Bakula received 47.35% of the vote.

⁵ Website of Senate District 19 http://www.dfl.org/index.asp?Type=B_BASIC&SEC=%7BB5C9FB8F-94DF-482E-81CD-075DD35D27E1%7D

⁶ Minnesota Secretary of State filings attached to Complaint.

⁷ http://www.dot.state.mn.us/d3/graphics2/factsheets/Hwy25buffalo_monticello.pdf

5. Sometime in September or October of 2008, Respondent Anderson asked permission of several businesses in the Buffalo area to post signs on their property promoting his campaign. Klatt True Value was one of several businesses that allowed Representative Anderson to post his sign on its property.

6. Representative Anderson has posted campaign signs at the same business locations for the past seven election cycles.⁸

7. After the complaint in this matter was filed, Representative Anderson entered into rental agreements with some of the owners of the businesses that posted his signs. Pursuant to the terms of the agreement, Representative Anderson was to pay \$5.00 a month for three months for the right to post his sign on their premises.⁹

8. At the October 17, 2008 probable cause hearing, Representative Anderson indicated that he would take down the campaign signs identified in the Complaint that same day.

Based upon the foregoing Findings of Fact, the panel makes the following:

CONCLUSIONS

1. Minn. Stat. § 211B.35 authorizes the panel of Administrative Law Judges to consider this matter.

2. The burden of proving the allegations in the complaint is on the Complainants. The standard of proof of a violation of Minn. Stat. §§ 211B.13 and 211B.15 is a preponderance of the evidence.¹⁰

3. Minn. Stat. § 211B.13, subd. 2, prohibits a person from knowingly soliciting, receiving or accepting anything of monetary value that is a disbursement prohibited by section 211B.15.

4. Minn. Stat. § 211B.15, subd. 2, prohibits corporations from making contributions, directly or indirectly, of anything of monetary value to an individual to promote the individual's candidacy or election to political office.

5. "Disbursement" means an act through which money, property, or other thing of value is directly or indirectly promised, paid, spent, contributed, or lent.¹¹

⁸ Testimony of Anderson at probable cause hearing. Anderson was first elected to the Minnesota House in 1994.

⁹ Respondent Anderson's submission.

¹⁰ Minn. Stat. § 211B.32, subd. 4.

¹¹ Minn. Stat. § 211B.01, subd. 5.

6. It is not a violation of Section 211B.15 for a corporation to post messages on its premises that promote participation in voter registration or elections, if the messages are not controlled by or operated for the advantage of a candidate, political party, or committee.¹²

7. It is a violation of the prohibition against corporate contributions for a corporation to post signs on its premises that are controlled by or operated for the advantage of a candidate.¹³

8. The sign posted on Klatt True Value's corporate premises was controlled by and operated for the advantage of Representative Bruce Anderson.

9. Respondent Bruce Anderson violated Minnesota Statute § 211B.13, subd. 2, by knowingly accepting from Klatt True Value Hardware Electric Co. a campaign contribution that was a prohibited corporate contribution, in the form of a campaign sign promoting his candidacy posted on Klatt True Value's corporate property.

10. Respondent Klatt True Value Hardware Electric Co. violated Minn. Stat. § 211B.15, subd. 2, by making a prohibited corporate contribution to Representative Bruce Anderson in the form posting a campaign sign on its corporate property promoting Representative Anderson's candidacy.

11. Pursuant to Minn. Stat. § 211B.35, subd. 2, the panel of Administrative Law Judges may impose a civil penalty of up to \$5,000 for any violation of chapter 211A or 211B.

Based upon the record herein, and for the reasons stated in the following Memorandum, the panel of Administrative Law Judges makes the following:

¹² Minn. Stat. § 211B.15, subd. 11.

¹³ Minn. Stat. § 211B.15, subds. 2 and 11.

ORDER

IT IS ORDERED:

1. That Respondent Bruce Anderson pay a civil penalty of \$400 by December 31, 2008, for violating Minn. Stat. § 211B.13, subd. 2.¹⁴

2. That Respondent Klatt True Value Hardware Electric Co. pay a civil penalty of \$100 by December 31, 2008, for violating Minn. Stat. § 211B.15, subd. 2.¹⁵

Dated: November 19, 2008

/s/ Steve M. Mihalchick

STEVE M. MIHALCHICK
Presiding Administrative Law Judge

/s/ Richard C. Luis

RICHARD C. LUIS
Administrative Law Judge

/s/ Carol Eckersen

CAROL A. ECKERSEN
Administrative Law Judge

¹⁴ The check should be made payable to "Treasurer, State of Minnesota" and sent to the Office of Administrative Hearings, P.O. Box 64620, St. Paul, MN 55101.

¹⁵ The check should be made payable to "Treasurer, State of Minnesota" and sent to the Office of Administrative Hearings, P.O. Box 64620, St. Paul, MN 55101.

MEMORANDUM

The facts in this matter are not in dispute. Klatt True Value Hardware Electric Co. agreed to post campaign signs on its corporate property promoting Respondent Bruce Anderson's candidacy in the November 2008 election. By doing so, Klatt True Value violated Minn. Stat. § 211B.15, which prohibits corporations from making contributions to individuals to promote their candidacy. By knowingly accepting the contribution, Representative Anderson violated Minn. Stat. § 211B.13, subd. 2, which prohibits a person from accepting or receiving a corporate contribution, which is a disbursement prohibited under Section 211B.15.

At the probable cause hearing, Representative Anderson admitted that he posted his campaign signs at various business locations in and around the Buffalo area. Respondent Anderson testified that he obtained each business owner's permission, and that he assumed the sign locations were on private property and that no laws were violated. Korey Klatt stated at the probable cause hearing that he believed that because his parents owned the company and the property, that they could grant permission to post the sign.

Representative Anderson has held his seat since 1994. During each election cycle he has posted his campaign signs in front of various businesses in the Buffalo area. Some of these businesses are organized as corporations. As a long-term member of the Minnesota legislature, Representative Anderson should be aware of the law prohibiting corporate contributions to candidates.

The Complainant urges the panel to view the advertising value of Respondent Anderson's signs as comparable to either a billboard or long-running newspaper advertisement. The Complainant has submitted three bids that were solicited from Franklin Outdoor Advertising on October 16, 2008, as evidence of the value of billboards placed in similar locations in and around the Buffalo area. The bid for one billboard located east of State Highway 55 and County Road 33, for example, was \$1195 a month. The Complainant has also submitted the rate sheet for advertising in the local Wright County Journal Press newspaper. According to this document, the rate for a full page advertisement is \$2459.60 for one week. Based on these figures, the Complainant asks the panel to assess the maximum civil penalty against the Respondents.

Having found that the Respondents violated Minn. Stat. §§ 211B.13 and 211B.15, the panel may make one of several dispositions.¹⁶ The panel may issue a reprimand, may impose a civil penalty of up to \$5,000, and may refer the complaint to the appropriate county attorney for criminal prosecution. In this case, the panel has decided to impose civil penalties of \$100 against Respondent Klatt True Value Hardware Electric, and \$400 against Respondent Bruce Anderson. The panel rejects the Complainant's claim that the advertising value of Representative Anderson's relatively small, self-produced campaign signs is comparable to the rental value of a billboard or the weekly rate for a full-

¹⁶ Minn. Stat. § 211B.35, subd. 2.

page newspaper advertisement. And while the Complainant listed six corporate locations where Respondent Anderson's signs were alleged to be posted, the record established that only one sign, the one posted at Klatt True Value Hardware Electric, was on corporate premises.¹⁷ The panel further notes that Respondent Anderson represented at the probable cause hearing that he would remove his signs as of October 17, 2008.

The panel finds Representative Anderson's violation was negligent and ill-advised and concludes that \$400 is an appropriate penalty. As for Respondent Klatt True Value, the panel finds its violation to be inadvertent and unintentional. The panel concludes that \$100 is an appropriate civil penalty. It is possible that the legislature intended the prohibition against corporate contributions to be directed against larger companies as opposed to "mom and pop" businesses, but no such exception exists and the law must be enforced.

S.M.M., R.C.L., C.A.E.

¹⁷ The panel notes that Culver's of Buffalo, which was identified in the Complaint as one of the corporate locations that permitted the posting of Representative Anderson's campaign sign, appears to be a franchise and not a corporation that does business in Minnesota. In any event it was not established that Respondent Anderson's signs at locations other than Klatt True Value were posted on corporate property.